IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.931 OF 2005

Mallappa Hirapa Karave and Ors. .. Appellants
Versus
Tayappa Ramji Patil and Ors. .. Respondents

Mr.Amit Sale for appellants

CORAM : P.V.KAKADE, J.

DATE : 30TH AUGUST, 2005

P.C.:

1. The appellants have preferred this appeal against the judgment and order passed by 4th Ad-hoc Addl. District Judge, Sangli dated 24.11.2004 dismissing the appeal and confirming the judgment and order passed by Civil Judge, Junior Division, Jath dated 30.6.2001 decreeing the suit for partition filed by the plaintiffs. While decreeing the suit the trial court also held that the defendant nos.3 to 6 were entitled for partition and separate possession of their share in the suit well.

2. I have heard the learned counsel for the appellant. Perused the record.

3. The plaintiffs had filed the suit for partition by metes and bounds and for separate possession of the plaintiffs to the extent of 06-ana 05-pai share, on the basis of sale deed dated 21.5.1982 produced on record. The defendant no.1 contested the suit only on the ground that the suit sale deed was obtained by the plaintiffs by taking undue advantage of alleged insanity of defendant no.2 and it was without consideration and legal necessity.

. The trial court adjudicated the dispute on merits and came to the conclusion that the defendant No.1 had proved that by taking undue advantage over the insanity of the defendant no.2, the plaintiffs obtained suit sale deed without consideration and without legal necessity and suit came to be dismissed. The appeal was carried to the District Court. The learned Addl. District Judge after hearing the parties came to the conclusion that the findings recorded by the trial court were legal and proper and dismissed the appeal. Hence the present appeal.

4. At the outset it must be noted that there is

absolutely no substantial question of law involved in this appeal. The issues involved in this dispute are issues of facts, which are seen to be properly appreciated by both the courts below while recording concurrent findings to the effect that the plaintiffs are entitled for partition of their share in the suit property and defendant no.1 had failed to prove that plaintiff had taken dis-advantage of alleged insanity of defendant no.2 while sale deed was executed. It is needless to mention that the plaintiffs had purchased the common share in the joint property and the assignee is entitled to enter into shoes of assignor for the interest of his share for that purpose decree is passed.

5. In the result the appeal stands dismissed. Consequently Civil Application No.1469 of 2005 also stands dismissed.